

Message Text

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ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
OMB-01 DOE-15 AF-10 ARA-10 EA-10 EUR-12 NEA-11
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USMTN

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A

TAGS: MTN, ETRD

SUBJECT: MCDONALD/DENMAN DISCUSSIONS; CUSTOMS VALUATION

- AND GOVERNMENT PROCUREMENT

1. CUSTOMS VALUATION - DISCUSSION ON CUSTOMS VALUATION
WAS BRIEF WITH EC DEL (PINGLE) NOTING THAT CONSIDERABLE
PROGRESS HAS BEEN MADE IN THIS AREA. ONLY TECHNICAL
ISSUE RAISED WAS COMPUTED VALUE. EC FLOATED IDEA
OF MAKING COMPUTED VALUE AN OPTIONAL STANDARD IN THE
FINAL FALLBACK ARTICLE. EC DEL ALSO INDICATED LDC'S
MIGHT BECOME A PROBLEM DUE TO LDC CONCERN OVER LOWEST
VALUE CONCEPT NOW IN CODE. U.S. DEL (MCDONALD)
AGREED THAT CUSTOMS VALUATION WORK WAS PROGRESSING WELL,
BUT REMINDED EC THAT ACCEPTANCE OF CODE IN U.S. WOULD
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DEPEND HEAVILY ON THE RECIPROCITY U.S. RECEIVED FOR
CHANGING ITS SYSTEM.

2. GOVERNMENT PROCUREMENT - MCDONALD AND DENMAN
WENT THROUGH OUTSTANDING GOVERNMENT PROCUREMENT ISSUES
IN SOME DETAIL:

- (A) EX ANTE PUBLICITY: DENMAN AGREED WITH U.S. POSITION TO ALLOW SUPPLIERS NOT CHOSEN IN A SELECTIVE PROCEDURE STILL TO SUBMIT A BID, IF THEY SO REQUEST. THE US/EC NEGOTIATORS ARE TO WORK OUT THE TEXT (TENDERING PROCEDURES SECTION PARA 3(A)) TO REFLECT THIS AGREEMENT.

- (B) EX POST INFORMATION: MCDONALD REITERATED U.S. POSITION THAT IN ADDITION TO OTHER INFORMATION DISCLOSED TO A LOSING BIDDER, DISCLOSURE OF THE NAME AND AMOUNT OF THE WINNER WERE ESSENTIAL TO TRANSPARENCY IN THE GOVERNMENT PROCUREMENT CODE. FURTHER, U.S. DEL NOTED THAT WE COULD NOT ACCEPT THE EC ARGUMENT ON COLLUSION. IN FACT, IN AN INTERNATIONAL SYSTEM WE COULD FORESEE THE OPPOSITE RESULT, I.E., INCREASED COMPETITION. DENMAN RESPONDED WITH TRADITIONAL EC POSITION. THE MEMBER STATES CANNOT CHANGE YEARS OF EC ADMINISTRATIVE PRACTICE SO EASILY. FURTHER, IN THE U.K., THE NATIONAL SECRETS ACT FORBIDS DISCLOSURE OF PRICES TO PREVENT COLLUSION. DENMAN INDICATED THAT DISCLOSURE OF SUCH INFORMATION TO OTHER GOVERNMENTS WAS FEASIBLE, AND THAT THEY WOULD CONSIDER THE POSSIBILITY OF DISCLOSING THE NAME OF THE WINNING BIDDER TO LOSING SUPPLIERS. MCDONALD AND DENMAN AGREED THIS WAS AN ISSUE THEY WILL TRY TO SOLVE AT THEIR NEXT MEETING.

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- (C) SINGLE TENDERING: BOTH NEGOTIATORS AGREED THAT U.S. AND EC WERE IN RELATIVE AGREEMENT ON SUBSTANCE OF SINGLE TENDERING TEXT. THE NEGOTIATORS WERE INSTRUCTED TO WORK OUT THEIR DIFFERENCES BEFORE THE NEXT MCDONALD/DENMAN MEETING.

- (D) OFFSETS: THIS ISSUE WAS BRIEFLY DISCUSSED WITH THE EC MAINTAINING THAT WHILE OFFSETS SHOULD BE MENTIONED IN THE CODE, THE EC COULD NOT AGREE TO TOTAL PROHIBITION AGAINST THEIR USE. IT WAS AGREED GENERALLY, THAT THIS ISSUE SHOULD BE REVIEWED PERIODICALLY UNTIL WE CAN COME UP WITH BETTER RULES.

- (E) COVERAGE: U.S. DEL STATED THAT WE HAVE A SERIOUS BALANCING PROBLEM IN THIS AREA. THE U.S. HAS PUT MORE INTO THE POT THAN ALL OTHER COUNTRIES COMBINED, WHILE THE EC HAS PUT IN ONLY \$3.6 BILLION - EVEN LESS THAN SWEDEN. MORE PARTICULARLY, MCDONALD NOTED WE WOULD HAVE A SEVERE POLITICAL PROBLEM SELLING A CODE IN WHICH DENMARK INCLUDED MORE THAN WEST GERMANY. DENMAN REPLIED THAT THE MEMBER STATE QUASI-

GOVERNMENTAL ORGANIZATIONS HAVE DEVELOPED HISTORICALLY FROM ECONOMIC CIRCUMSTANCES. HE COULD NOT SEE THE COUNCIL OF MINISTERS CHANGING THIS SYSTEM FOR THE GOVERNMENT PROCUREMENT CODE. DENMAN STATED THAT ANY BALANCING WOULD HAVE TO COME FROM A U.S. DECREASE IN ITS OFFER. DENMAN WAS WILLING TO AGREE TO A COMMITMENT TO INCREASE THE CODE'S COVERAGE OVER TIME.

3. DRAFTED BY SHELLEY. MCDONALD

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